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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-325

13 **ELISHA JANELL MCBRIDE,**
14 **aka ELISHA JANELL RISLEY**
15 **10693 Caminito Derecho**
San Diego, CA 92126

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

16 **Registered Nurse License No. 613945**
17 **Public Health Nurse Certificate No. 66453**

18 Respondent.

19 **FINDINGS OF FACT**

20 1. On or about October 25, 2012, Complainant Louise R. Bailey, M.Ed., R.N., in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs, filed Accusation No. 2013-325 against Elisha Janell McBride, also known as
23 Elisha Janell Risley (Respondent) before the Board of Registered Nursing. (A copy of
24 Accusation is attached as Exhibit A.)

25 2. On or about February 18, 2003, the Board of Registered Nursing (Board) issued
26 Registered Nurse License No. 613945 to Respondent. The Registered Nurse License was in full
27 force and effect at all times relevant to the charges brought in Accusation No. 2013-325 and will
28 expire on March 31, 2013, unless renewed.

1 3. On or about May 27, 2003, the Board of Registered Nursing issued Public Health
2 Nurse Certificate No. 66453 to Respondent. The Public Health Nurse Certificate was in full force
3 and effect at all times relevant to the charges brought in Accusation No. 2013-325 and will expire
4 on March 31, 2013, unless renewed.

5 4. On or about October 25, 2012, Respondent was served by Certified and First Class
6 Mail copies of the Accusation No. 2013-325, Statement to Respondent, Notice of Defense,
7 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
8 and 11507.7) at Respondent's address of record which, pursuant to California Code of
9 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board.
10 Respondent's address of record was and is:

11 10693 Caminito Derecho
12 San Diego, CA 92126

13 5. Service of the Accusation was effective as a matter of law under the provisions of
14 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
15 124.

16 6. On or about October 31, 2012, the Board received a Domestic Return Receipt for the
17 Accusation served by certified mail. "Cody Risley" signed the Domestic Return Receipt on or
18 about October 29, 2012, acknowledging that the Accusation was received at Respondent's
19 address of record

20 7. Government Code section 11506 states, in pertinent part:

21 (c) The respondent shall be entitled to a hearing on the merits if the respondent
22 files a notice of defense, and the notice shall be deemed a specific denial of all parts
23 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

24 8. Respondent failed to file a Notice of Defense within 15 days after service upon her of
25 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2013-
26 325.

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1 9. California Government Code section 11520 states, in pertinent part:

2 (a) If the respondent either fails to file a notice of defense or to appear at the
3 hearing, the agency may take action based upon the respondent's express admissions
4 or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

5 10. Pursuant to its authority under Government Code section 11520, the Board finds
6 Respondent is in default. The Board will take action without further hearing and, based on the
7 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
8 taking official notice of all the investigatory reports, exhibits and statements contained therein on
9 file at the Board's offices regarding the allegations contained in Accusation No. 2013-325, finds
10 that the charges and allegations in Accusation No. 2013-325, are separately and severally, found
11 to be true and correct by clear and convincing evidence.

12 11. Taking official notice of its own internal records, pursuant to Business and
13 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
14 and Enforcement is \$1,242.50 as of November 27, 2012.

15 **DETERMINATION OF ISSUES**

16 1. Based on the foregoing findings of fact, Respondent Elisha Janell McBride, also
17 known as Elisha Janell Risley has subjected her Registered Nurse License No. 613945 and Public
18 Health Nurse Certificate 66453 to discipline.

19 2. The agency has jurisdiction to adjudicate this case by default.

20 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
21 Nurse License and Public Health Nurse Certificate based upon the following violations alleged in
22 the Accusation which are supported by the Default Decision Investigatory Evidence Packet in this
23 case:

24 a. Respondent has subjected her license and certificate to disciplinary action under
25 sections 490 and 2761, subdivision (f) of the Code in that on or about March 28, 2011, in a
26 criminal proceeding entitled *People of the State of California v. Elisha Janell McBride*, in San
27 Diego County Superior Court, case number M127317DV, Respondent was convicted on her plea
28 of guilty of violating Penal Code section 242, battery, a misdemeanor, a crime that is substantially

1 related to the qualifications, functions, and duties of a registered nurse.

2 b. Respondent has subjected her license and certificate to disciplinary action under
3 sections 490 and 2761, subdivision (f) of the Code in that on or about June 25, 2012, in a criminal
4 proceeding entitled *People of the State of California v. Elisha Janell McBride*, in San Diego
5 County Superior Court, case number CD240531, Respondent was convicted on her plea of guilty
6 of violating Health and Safety Code section 11550, subdivision (a), under the influence of a
7 controlled substance, to wit, methamphetamine, a misdemeanor; and Penal Code section 32,
8 accessory after the fact, a felony, crimes that are substantially related to the qualifications,
9 functions, and duties of a registered nurse.

10 c. Respondent has subjected her license and certificate to disciplinary action under
11 section 2762, subdivision (b) of the Code for unprofessional conduct in that on or about April 26,
12 2012, Respondent was under the influence of the controlled substance methamphetamine to an
13 extent or in a manner that was potentially dangerous and injurious to herself, and to others.

14 d. Respondent has subjected her license and certificate to disciplinary action under
15 section 2762, subdivision (c) of the Code for unprofessional conduct in that on or about June 25,
16 2012, Respondent was convicted of a criminal offense involving the use of methamphetamine.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 613945 and Public Health Nurse Certificate No. 66453, heretofore issued to Respondent Elisha Janell McBride, also known as Elisha Janell Risley, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on MARCH 29, 2013.

It is so ORDERED FEBRUARY 28, 2013.



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

DOJ Matter ID:SD2012703622

Attachment:
Exhibit A: Accusation

2011-2012
2012-2013
2013-2014

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
AMANDA DODDS
4 Senior Legal Analyst
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-325*

13 **ELISHA JANELL MCBRIDE,**
14 **aka ELISHA JANELL RISLEY**
15 **10693 Caminito Derecho**
San Diego, CA 92126

A C C U S A T I O N

16 **Registered Nurse License No. 613945**
Public Health Nurse Certificate No. 66453

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about February 18, 2003, the Board of Registered Nursing issued Registered
25 Nurse License Number 613945 to Elisha Janell McBride, also known as Elisha Janell Risley
26 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to
27 the charges brought herein and will expire on March 31, 2013, unless renewed.

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3. On or about February 18, 2003, the Board of Registered Nursing issued Public Health Nurse Certificate Number 66453 to Respondent. The Public Health Nurse Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2013, unless renewed.

JURISDICTION

4. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

7. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

8. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

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1 12. Section 2765 of the Code states:

2 A plea or verdict of guilty or a conviction following a plea of nolo contendere
3 made to a charge substantially related to the qualifications, functions and duties of a
4 registered nurse is deemed to be a conviction within the meaning of this article. The
5 board may order the license or certificate suspended or revoked, or may decline to
6 issue a license or certificate, when the time for appeal has elapsed, or the judgment of
7 conviction has been affirmed on appeal or when an order granting probation is made
8 suspending the imposition of sentence, irrespective of a subsequent order under the
9 provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his
10 or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
11 guilty, or dismissing the accusation, information or indictment.

8 REGULATORY PROVISIONS

9 13. California Code of Regulations, title 16, section 1444, states:

10 A conviction or act shall be considered to be substantially related to the
11 qualifications, functions or duties of a registered nurse if to a substantial degree it
12 evidences the present or potential unfitness of a registered nurse to practice in a
13 manner consistent with the public health, safety, or welfare. Such convictions or acts
14 shall include but not be limited to the following:

15 (a) Assaultive or abusive conduct including, but not limited to, those violations
16 listed in subdivision (d) of Penal Code Section 11160.

17 (b) Failure to comply with any mandatory reporting requirements.

18 (c) Theft, dishonesty, fraud, or deceit.

19 (d) Any conviction or act subject to an order of registration pursuant to Section
20 290 of the Penal Code.

21 14. California Code of Regulations, title 16, section 1445 states:

22

23 (b) When considering the suspension or revocation of a license on the grounds
24 that a registered nurse has been convicted of a crime, the board, in evaluating the
25 rehabilitation of such person and his/her eligibility for a license will consider the
26 following criteria:

27 (1) Nature and severity of the act(s) or offense(s).

28 (2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation,
restitution or any other sanctions lawfully imposed against the licensee.

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1 (5) If applicable, evidence of expungement proceedings pursuant to Section
2 1203.4 of the Penal Code.

3 (6) Evidence, if any, of rehabilitation submitted by the licensee.

4 **COST RECOVERY**

5 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
6 administrative law judge to direct a licensee found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case.

9 **DRUG**

10 16. Methamphetamine is a Schedule II controlled substance as designated by Health and
11 Safety Code section 11055, subdivision (d)(2), and is a dangerous drug pursuant to Business and
12 Professions Code section 4022.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(March 28, 2011 Criminal Conviction for Battery on March 24, 2011)**

15 17. Respondent has subjected her license and certificate to disciplinary action under
16 sections 490 and 2761, subdivision (f) of the Code in that she was convicted of a crime that is
17 substantially related to the qualifications, functions, and duties of a registered nurse. The
18 circumstances are as follows:

19 a. On or about March 28, 2011, in a criminal proceeding entitled *People of the*
20 *State of California v. Elisha Janell McBride*, in San Diego County Superior Court, case number
21 M12731DV, Respondent was convicted on her plea of guilty of violating Penal Code section 242,
22 battery, a misdemeanor. The court dismissed additional counts of assault (Pen. Code, § 240), and
23 making a criminal threat (Pen. Code, § 422), pursuant to the plea agreement.

24 b. As a result of the conviction, on or about March 28, 2011, Respondent was
25 granted three years summary probation and sentenced to seven days in the commitment of the
26 sheriff, with credit for seven days. Respondent was further ordered to attend and complete 52
27 weeks of individual counseling, and pay a \$714 fine (with \$350 credit for time served). A
28 protective "stay away" order was issued for the victims.

1 c. The facts that led to the conviction are that on or about the morning of March
2 24, 2011, a patrol officer with the San Diego Police Department was dispatched to investigate a
3 report of an assault with a deadly weapon at a residence Respondent shared with her mother-in-
4 law and father-in-law. According to the in-laws, Respondent became angry because they refused
5 to leave the house. Respondent threw an ashtray at her father-in-law, but it missed and struck her
6 mother-in-law in the face. Respondent had also threatened her father-in-law, stating that she
7 would stab him with a knife if he did not leave. Respondent's in-laws further stated that the day
8 before, Respondent chased some of her son's friends out of the house with a baseball bat. The
9 father-in-law stated that Respondent had recently become increasingly violent, and he believed
10 she could hurt someone or herself. Respondent was arrested and transported to jail. Once at the
11 jail, Respondent told the intake nurse that she was suicidal and wanted to kill herself. Respondent
12 was rejected by the jail, so the officer transported Respondent to San Diego County Mental
13 Health where she was evaluated and eventually released. Respondent was transported back to the
14 jail. While at Mental Health, Respondent made verbal threats towards the police officer stating
15 "You will regret this [expletive], if I ever see you in a store and I have a gun I will blow your
16 head off ... you don't know who you're [expletive] with." On or about July 29, 2011,
17 Respondent was arrested on a warrant for violating probation. The arresting officer noted in her
18 report that Respondent had track marks on both arms, and she was thin and lethargic.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(June 25, 2012 Criminal Convictions for Under the Influence of a Controlled Substance**
21 **& Accessory After the Fact on April 26, 2012)**

22 18. Respondent has subjected her license and certificate to disciplinary action under
23 sections 490 and 2761, subdivision (f) of the Code in that she was convicted of crimes that are
24 substantially related to the qualifications, functions, and duties of a registered nurse. The
25 circumstances are as follows:

26 a. On or about June 25, 2012, in a criminal proceeding entitled *People of the State*
27 *of California v. Elisha Janell McBride*, in San Diego County Superior Court, case number
28 CD240531, Respondent was convicted on her plea of guilty of violating Health and Safety Code

1 section 11550, subdivision (a), under the influence of a controlled substance, to wit,
2 methamphetamine, a misdemeanor; and Penal Code section 32, accessory after the fact, a felony.
3 As a result of a plea agreement, the court dismissed three additional counts of forgery (Pen. Code,
4 § 475, subdivisions (a), (b), and (c)), possession of forged financial institution checks (Pen. Code,
5 § 476), resisting arrest/obstruction of justice (Pen. Code, § 148(a)(1)), giving false information to
6 a peace officer (Pen. Code, § 148.9(a)), and possession of burglary tools (Pen. Code, § 466)).

7 b. As a result of the conviction, on or about June 25, 2012, Respondent was
8 granted three years probation to the court, and sentenced to one day in jail, with credit for one
9 day. Respondent was further ordered to attend and complete an outpatient drug treatment
10 program for a minimum of six months, register as a drug offender, and pay fees, fines, and
11 restitution.

12 c. The facts that led to the conviction are that on or about the evening of April 26,
13 2012, officers with the San Diego Police Department went to Respondent's residence to serve an
14 arrest warrant on her husband for forgery and violation of probation. When the officers rang the
15 doorbell, Respondent answered the door and used a fictitious name. Respondent was told by the
16 officers that they had an arrest warrant for her husband. Respondent refused to allow the officers
17 entrance to the residence, gave the officers false information as to her identity, and continuously
18 denied there was anyone inside the apartment besides herself. The officers could hear a male's
19 voice from inside the residence. The officers made entry into the apartment. Even when they
20 could hear noise coming from the attic, Respondent denied there was anyone else inside the
21 residence. Respondent was arrested for obstructing an investigation. During an evaluation of
22 Respondent, the officer noted that she appeared to under be the influence of a controlled substance
23 (bad breath and body odor, chapped lips, profuse sweating, an unkempt appearance, rebound
24 pupil dilation, and eyelid flutter). A blood sample taken from Respondent subsequently tested
25 positive for methamphetamine. In a search of the residence, in spaces shared by both Respondent
26 and her husband, the officers found extensive evidence of identity theft, check forgery, and
27 fraudulent check production. There were also altered keys used to open vehicle doors, ignitions,
28 and steering wheel locks.

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